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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/988,336      | 11/19/2001  | Takaya Nonomura      | 042206              | 8557             |

38834 7590 07/24/2007  
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| EXAMINER |
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CHOWDHURY, SUMAIYA A

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| ART UNIT | PAPER NUMBER |
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2623

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| MAIL DATE | DELIVERY MODE |
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07/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/988,336

Applicant(s)

NONOMURA, TAKAYA

Examiner

Sumaiya A. Chowdhury

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 6/7/07 have been fully considered but they are not persuasive.

(a) Applicant argues "Although Zigmond discloses that geographic information is used to select an advertisement to be displayed to a viewer, Zigmond is silent with respect to how the geographic information is specifically used. In particular, Zigmond does not disclose or suggest that the advertising area information, which is carried on the broadcast wave, is compared with the geographic information stored in storage device 82 to select advertising information that is output in response to the judgement that the video and audio which are currently being output are a commercial" on page 5, 4th paragraph, of the Remarks filed 6/7/07.

Firstly, applicant is arguing the claim on a piecemeal basis. Thibadeau was brought in to teach that the advertising area information which is carried on a broadcast wave is compared with the geographic information stored at the receiver, in order to select geographically targeted advertisements. Zigmond was brought in to teach outputting a targeted commercial when the video and audio which are currently being outputted are a commercial.

Secondly, contrary to applicant's arguments, Zigmond certainly suggests the advertising area information which is carried on the broadcast wave is compared with the geographic information stored at the receiver to select advertising. Referring to col.

Art Unit: 2623

10, lines 47-58, Zigmond teaches viewer demographic data (i.e. city, neighborhood, or the street address of the household) is stored at the receiver. Referring to col. 11, lines 30-53, Zigmond teaches ad selection criteria which is predefined by the headend, includes advertisement parameters associated with particular advertisements. The advertisement parameters include codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be displayed to **an appropriate segment of the viewing population.**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau (5565909) in view of Zigmond (6698020).

As for claim 1, Thibadeau discloses a digital broadcasting receiving device with an advertising information outputting function, comprising:

a receiver for receiving a digital broadcasting wave - col. 7, lines 35-51, col. 5, lines 28-40;

video/audio output means (television) for outputting at least one of video and audio (The television outputs the TV program on the display screen);

means (data processor) for taking out advertising information and advertising area information which are carried on the digital broadcasting wave – col. 11, lines 32-47, col. 20, lines 55-60, col. 8, lines 8-12;

means (either user or gps) for outputting information related to the current position – (The user could manually enter in location data, or the location data could be received by use of a dynamic GPS; col. 20, lines 29-67);

selection means (processor) for selecting the advertising information by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35; and

a controller (component within receiver) for feeding the selected advertising information to said video/audio output means at predetermined timing – (The advertisements are stored for later retrieval - col. 14, lines 43-53).

However, Thibadeau fails to disclose in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising

judgment means for judging whether or not video and audio which are being currently outputted are a commercial (CM) appended to a program,

wherein said controller feeds to said video/audio output means the advertising information selected by the contrast between the information related to the current

Art Unit: 2623

position and the advertising area information in response to said judgment means judging that the video and audio which are currently being outputted are a commercial.

In an analogous art, Zigmond teaches determining whether a commercial is appended to a program by detecting a triggering event (black screen). When it is determined that a commercial is indeed appended to a program, the video switch 68 replaces the commercial with a selected commercial (col. 8, lines 30-65). The commercial selected is selected based on the geographical location of the subscriber (col. 14, lines 48-54). Referring to col. 10, lines 47-58, Zigmond teaches viewer demographic data (i.e. city, neighborhood, or the street address of the household) is stored at the receiver. Referring to col. 11, lines 30-53, Zigmond teaches ad selection criteria which is predefined by the headend, includes advertisement parameters associated with particular advertisements. The advertisement parameters include codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be displayed to **an appropriate segment of the viewing population.**

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned limitation, as taught by Zigmond, in order to efficiently target desired viewers of particular advertisements.

As for claim 2, Thibadeau discloses a digital broadcasting receiving device with an advertising information outputting function, comprising:

Art Unit: 2623

a first receiver (STB) for receiving a digital broadcasting wave – col. 7, lines 35-51, col. 5, lines 28-40;

video/audio output means for outputting at least one of video and audio;

means for taking out advertising information and advertising area information which are carried on the digital broadcasting wave – col. 11, lines 32-47, col. 20, lines 55-60, col. 8, lines 8-12;

a second receiver (data processor associated with the set-top unit) for receiving a transmission wave on which information required to specify the current position is carried – col. 10, lines 25-28, col. 20, lines 29-67, col. 9, lines 30-37;

means for outputting information related to the current position on the basis of the information carried on said transmission wave – (The user could manually enter in location data, or the location data could be received by use of a dynamic GPS; col. 20, lines 29-67);

selection means for selecting the advertising information by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35; and

a controller (component in STB that does the processing) for feeding the selected advertising information to said video/audio output means at predetermined timing – (The advertising information is stored for later retrieval - col. 14, lines 43-53).

However, Thibadeau fails to disclose in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising

Art Unit: 2623

judgment means for judging whether or not video and audio which are being currently outputted are a commercial (CM) appended to a program,

wherein said controller feeds to said video/audio output means the advertising information selected by the contrast between the information related to the current position and the advertising area information in response to said judgment means judging that the video and audio which are currently being outputted are a commercial.

In an analogous art, Zigmond teaches determining whether a commercial is appended to a program by detecting a triggering event (black screen). When it is determined that a commercial is indeed appended to a program, the video switch 68 replaces the commercial with a selected commercial (col. 8, lines 30-65). The commercial selected is selected based on the geographical location of the subscriber (col. 14, lines 48-54). Referring to col. 10, lines 47-58, Zigmond teaches viewer demographic data (i.e. city, neighborhood, or the street address of the household) is stored at the receiver. Referring to col. 11, lines 30-53, Zigmond teaches ad selection criteria which is predefined by the headend, includes advertisement parameters associated with particular advertisements. The advertisement parameters include codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be displayed to an **appropriate segment of the viewing population.**

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned



Art Unit: 2623

limitation, as taught by Zigmond, in order to efficiently target desired viewers of particular advertisements.

As for claims 3 and 4, Thibadeau and Zigmond disclose the claimed limitations. In particular, Thibadeau discloses in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising:

a memory storing the advertising information and the advertising area information which are taken out of the digital broadcasting wave – col. 13, lines 34-50, col. 14, lines 17-21, lines 28-31, lines 43-45, lines 52, col. 4, lines 51-54;

said selection means being constructed such that the advertising information stored in said memory can be selected by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35;

Claim 5 contains the limitations of claims 1 and 3, and is analyzed as previously discussed with respect to that claim.

As for claims 11-15, Thibadeau and Zigmond disclose the claimed limitations. In particular, Zigmond teaches the user is presented with advertisement to select from for display to the user (col. 9, lines 29-38).

Art Unit: 2623

As for claims 16-20, Thibadeau and Zigmond disclose the claimed limitations. in particular, Zigmond teaches at an appropriate time specified by encoded data, the advertisement insertion device interrupts the display of the video programming feed. – col. 7, lines 25-30

As for claims 21-25, Thibadeau and Zigmond disclose the claimed limitations. In particular, Zigmond discloses wherein two or more advertisements (menu; displays that advertising information exists) are displayed to the user from which the user selects one advertisement using the remote control (selection means) to be displayed on the television (video/output means) – col. 16, line 65 – col. 17, line 10.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2623

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC

  
ANDREW Y. KOENIG  
PRIMARY PATENT EXAMINER